

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

July 22, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Oahu

Request to Modify Lease Performance Bond and Request for a Waiver of Interest, or in the Alternative, Approval for Issuance of a Promissory Note for Boating Lease No. B-11-01, to Sandbar Group, Inc., for Heeia State Harbor Fuel and Restaurant Operations Tax Map Key (1) 4-6-006: Por. 067.

LEGAL REFERENCE:

Section 171-20, 21, 39, and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at the He'eia Kea Small Boat Harbor, Heeia, Koolaupoko, Oahu, Hawaii, identified by Tax Map Key (1) 4-6-006: Por. 067 as shown on the attached map labeled Exhibit A.

AREA:

The area of the agreement is comprised of the following:
Parcel 1 containing an area of 980 square feet;
Parcel 2 containing an area of 1,020 square feet;
Parcel 3 containing an area of 2,244 square feet; and a
Pipeline easement containing an area of 970 square feet; hereinafter referred to as the "Premises" as shown on the attached survey labeled Exhibit B.

ZONING:

State Land Use District: Urban
County of Honolulu CZO: P-2 General Preservation District

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution YES ___ NO X

CURRENT USE STATUS:

Encumbered by Boating Lease No. B-11-01, Sandbar Group, Inc., Lessee, for petroleum storage tanks, facilities and waste oil containment system, dockside fueling operation, sewage pump out system and for a convenience store, ships chandlery, over the counter snack bar and ice house. Also encumbered by a pipeline easement. Lease to expire on March 31, 2046.

CHARACTER OF USE:

Parcel 1 for petroleum storage tanks and facilities and a waste oil containment system;
Parcel 2 for dockside fueling operations and sewage pump-out system;
Parcel 3 for convenience store, ships chandlery, over-the-counter snack bar and ice house.
Pipeline easement for subsurface pipeline for transmission of petroleum products only and as a right-of-way for transmission of petroleum products only and as a right-of-way for the installation, repair, maintenance and replacement of said subsurface pipeline purposes.

COMMENCEMENT DATE:

35 years, commencing on April 1, 2011 and expiring on March 31, 2046.

MONTHLY RENTAL:

\$3,151.05, per month, as stated in the Lease per section B. 2. a. Minimum annual base rent for years six (6) through ten (10) shall be equal to the fifth year's minimum annual base rent multiplied by 1.05, and shall be in the amount of THIRTY SEVEN THOUSAND, EIGHT HUNDRED TWELVE AND 60/100 DOLLARS (\$37,812.60) per annum.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO ___
Registered business name confirmed:	YES <u>X</u>	NO ___
Applicant in good standing confirmed:	YES <u>X</u>	NO ___

REMARKS:

In April 2011, DOBOR entered into an agreement to lease three parcels of land at the He'eia Kea Small Boat Harbor (the Lease). Two of the parcels provide fuel to boaters and the third parcel provides a food, merchandise, and ship chandlery.

In April 2012, the tenant began to miss its monthly payments. On March 13, 2015 the Board approved a 12 month extension for Sandbar Group Inc. to pay the back rent and obtain a Performance Bond, to stay current on rent and for DOBOR to give status updates to the Chairperson every 3 months.

As of June 30, 2016, the Lessee paid \$59,524.15 and is now current with the rent and still owes interest in the amount of \$16,751.33. In addition, the performance bond in the amount of \$72,024.00 has not been met.

Over the past two years, while DOBOR and Sandbar Group, Inc., went through the default process described above, Sandbar Group, Inc., has been working diligently to modify their internal business structure and to improve their fuel and restaurant operation at He'eia Small Boat Harbor.

Sandbar Group, Inc., has recently come under new management and have just begun to turn the operations at He'eia small boat harbor into a profitable venture. The owner, Russ Inouye, recently added new corporate officers including, a husband and wife team, Fred and Cheryl DeAngelo who have vast experience in business management, including restaurant operation, and have been instrumental in restructuring the management of Sandbar Group, Inc.

Sandbar Group, Inc. has made the following improvements to their business structure as well as the premises:

- Sandbar Group, Inc. now has a contract with Captain Bruce's Tours which is a private charter yacht. The contract is for the catering of food for the sunrise cruise at 5:30 a.m., the brunch tour and for an afternoon barbecue for an estimate of 200 - 300 people. Future plans include obtaining other similar catering contracts.
- Sandbar Group, Inc., is in negotiations with fueling truck companies to offer fuel to commercial tour operators.
- Sandbar Group, Inc., has better hours as they are now open from 7 a.m. to 5 p.m., previous hours were from 8 a.m. to 2 p.m.
- Future plans also include contracting with a mobile fuel truck to be available on weekends for recreational boaters until their own fuel truck can be purchased. When able to purchase their own truck, it will be stationed at the pumps so everyone can see when fuel is available.

Since Fred and Cheryl DeAngelo were brought on, the entire structure was repainted, electrical system, outlets and breakers, hood system, water heater, tables and benches were refinished, new kitchen equipment was added and major cleaning was done. Due to the extensive cleaning and repairs, the business passed the State of Hawaii health code inspection in July 2015.

In consideration of the foregoing improvements, DOBOR is open to modifying the terms of the lease in order to allow Sandbar Group, Inc. to retain the Lease. As such, DOBOR is therefore requesting approval of the Board for the follow actions:

1. Pursuant to page 16, paragraph 29 of the lease "*Waiver, modification, reimposition of bond and liability insurance provisions. Upon substantial compliance by the Lessee with the terms, covenants, and conditions contained in this lease on its part to be observed or performed, the Lessor at its discretion may in writing, waive or suspend the performance bond or improvement bond requirements or both or may, in writing, modify the particular bond(s) or liability insurance requirements by reducing its amount; provided, however, that the Lessor reserves the right to reactivate the bonds or reimpose the bond(s) or liability insurance in and to their original tenor and form at any time throughout the term of this lease.*"

Modify the performance bond requirement of the Sandbar Group, Inc. Lease to one year of the base rent instead of two, for the amount of \$37,812.60; to be established within six (6) months of approval of this Board submittal.

2. Waive the outstanding interest charges of \$16,751.33. In the alternative, issuance of a promissory note for one year; which will be paid at four percent (4%) simple interest with monthly payments of \$1,451.78 beginning August 1, 2016

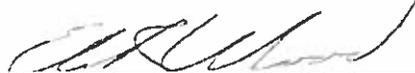
As such, DOBOR is recommending as stated below, subject to evaluation of the aforementioned documents.

RECOMMENDATION: That the Board:

1. Modify the performance bond requirement of the Sandbar Group, Inc. Lease to one year of the base rent instead of two, for the amount of \$37,812.60; to be established within six (6) months of approval of this Board submittal.
2. Waive the outstanding interest charges of \$16,751.33. In the alternative, issuance of a promissory note for one year; which will be paid at four percent (4%) simple interest with monthly payments of \$1,451.78 beginning August 1, 2016.
3. In addition to the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

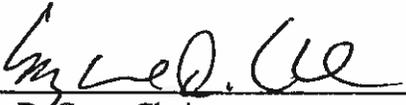
- a) The standard terms and conditions of the most current Lease or additional form(s), as may be amended from time to time;
- b) Review and approval by the Department of the Attorney General; and
- c) Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Edward R. Underwood
Administrator, DOBOR

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

Exhibit A
He'eia Kea Boat Harbor
(The individual parcels for Sandbar Group, Inc. are shown highlighted)



Public Land Trust Information System

Map Data Help About the PLTIS

ID Search

Enter an Alternate ID, tax map key (TMK), portion of TMK or range of 9 digit TMKs
Es. (1) 2-1-033-025 or 121033025

(1) 4-6-006:67

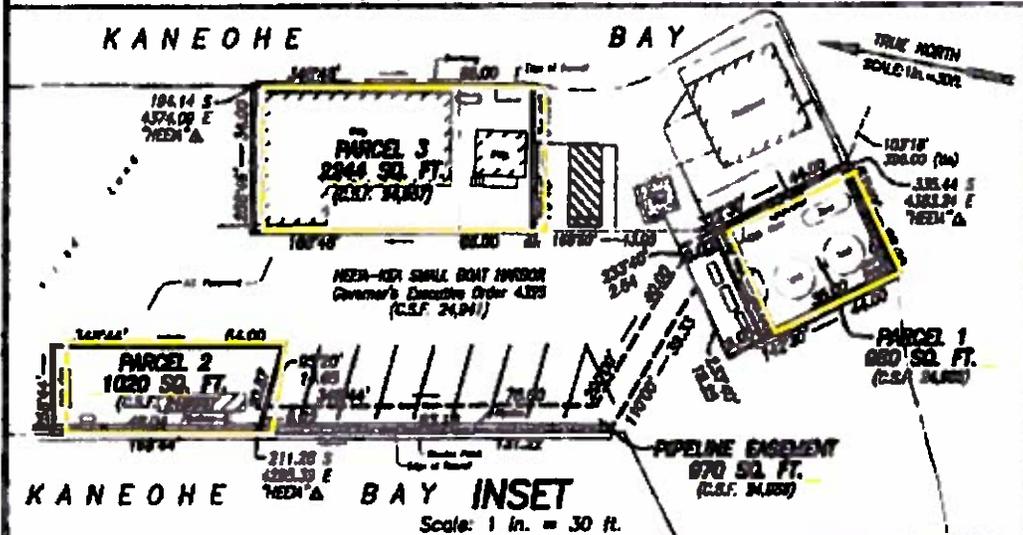
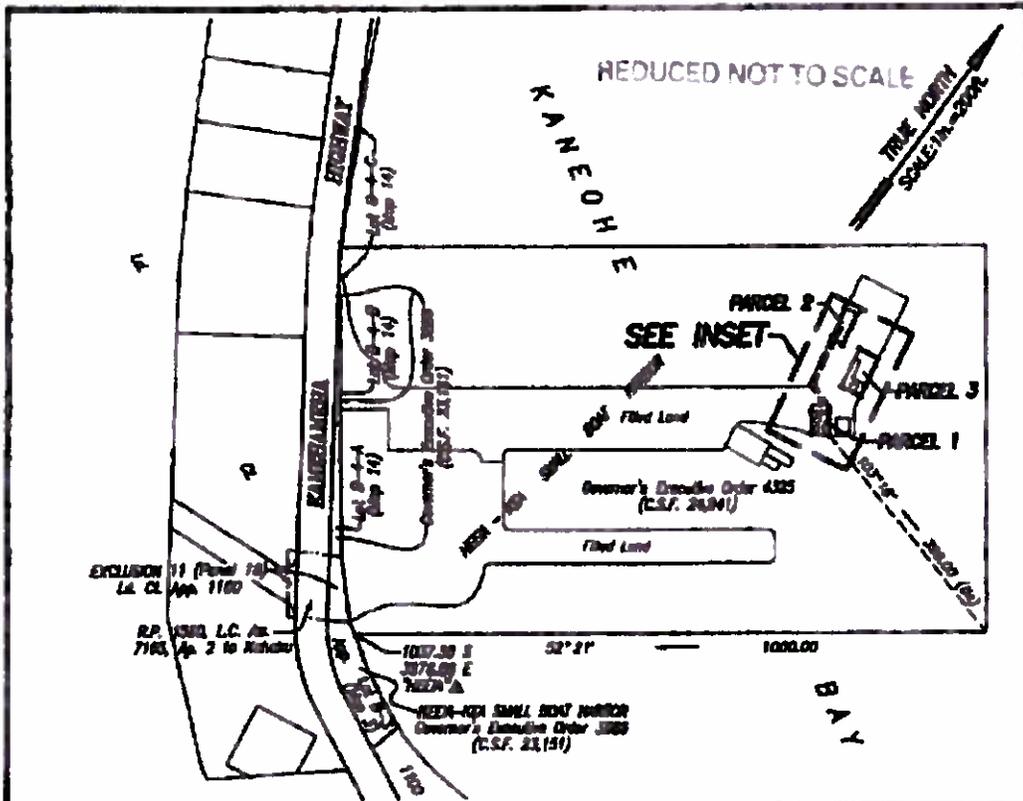
Or enter an Encumbrance ID

- Polygon Search
- Basic Query
- Advanced Query
- Layers and Rendering
- Print and Bookmark
- Map Legend

Search for an address or use a box

A map view from the Public Land Trust Information System. The map shows a curved waterfront area with several parcels highlighted in red. A larger parcel on the right is highlighted in blue. The map includes a search bar at the top right and a navigation panel on the left. The text "He'eia Kea Boat Harbor" is visible on the map.

Exhibit B



(REVISED - SEPTEMBER 2010)
HEEIA-KEA SMALL BOAT HARBOR
LEASE PARCELS 1, 2, 3 AND PIPELINE EASEMENT
 Heeia, Koolaupoko, Oahu, Hawaii

JOB O-142(D8)
 C. BK. GEN. CF 4-0

TAX MAP 4-0-08

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

C.S.F. NOS.

027 September 8, 2010